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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 24737 | 7590 | 07/29/2004 | EXAMINER | |
| PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510 | | | KIBLER, VIRGINIA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2623 | |

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,883

Applicant(s)

GUTTA ET AL.

Examiner

Virginia M Kibler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 7, 9, 10, 13-17, 19, 20, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Giraud (5,966,696).

Regarding claim 1, Giraud discloses capturing image data within a predetermined proximity of a displayed product (Col. 1, lines 40-50; Col. 5, lines 66-67, Col. 6, lines 1-24), identifying people in the captured image data (Col. 3, lines 35-38; Col. 5, lines 66-67, Col. 6, lines –24), and assessing the interest in the displayed product based upon the identified people (Col. 1, lines 35-38; Col. 2, lines 51-56; Col. 5, lines 36-44).

Regarding claim 2, Giraud discloses identifying the number of people in the captured image data and the assessing step assesses the interest in the displayed product based upon the number of people identified (Col. 5, lines 36-44).

Regarding claim 3, Giraud discloses identifying including recognizing the behavior of the people in the captured image data and assessing the interest in the displayed product based upon the recognized behavior of the people (Col. 5, lines 66-67, Col. 6, lines 1-24).

Regarding claim 5, Giraud discloses recognizing if the viewer is facing the display (Col. 5, lines 66-67, Col. 6, lines 1-24), thereby recognizing at least one characteristic of the people identified in the captured image data.

Regarding claim 7, the arguments analogous to those presented above for claims 1 and 5 are applicable to claim 7.

Regarding claims 9 and 10, the arguments analogous to those presented above for claims 2 and 3 are applicable to claims 9 and 10, respectively.

Regarding claims 13-16, the arguments analogous to those presented above for claims 1-3 and 5 are applicable to claims 13-16, respectively.

Regarding claims 17, 20, and 23, the arguments analogous to those presented above for claim 7 are applicable to claims 17, 20, and 23.

Regarding claims 19 and 22, the arguments analogous to those presented above for claim 1 are applicable to claims 19 and 22.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al. (5,331,544).

Regarding claims 6 and 8, Lu et al. ("Lu") discloses capturing image data within a predetermined proximity of a displayed product (Col. 4, lines 41-68, Col. 5, lines 1-5), identifying people in the captured image data (Col. 3, lines 36-44; Col. 6, lines 21-39), assessing the interest in the displayed product based upon the identified people (Col. 9, lines 46-59), and

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recognizing at least one characteristic of the people identified in the captured image (Col. 9, lines 46-59). Lu discloses including face recognition of people identified viewing the display including demographics (Col. 3, lines 36-44), but does not appear to specify gender or ethnicity. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the demographics disclosed by Lu to expressly state gender or ethnicity because it is well known in the art to determine the gender or ethnicity of a person in an image and provides market research data.

5. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giraud (5,966,696) as applied to claims 3 and 10 above.

Regarding claims 4 and 11, Giraud discloses tracking consumer exposure to a displayed product (Col. 2, lines 9-18; Col. 3, lines 30-38). Giraud further discloses determining if a viewer is looking at a displayed product, obtaining detailed information relating to the characteristics of the viewer, and analyzing patterns related to the viewer which are indicative of his attentiveness (Col. 5, lines 66-67, Col. 6, lines 1-24). While Giraud does not appear to expressly recognize the average time spent looking at the displayed product, it would have been obvious to one of ordinary skill in the art to do so because it provides information relating to the viewer's attentiveness to the displayed product, thereby providing market research information.

6. Claims 12, 18, 21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giraud (5,966,696) in view of Fukui et al. (5,918,222).

Regarding claims 12, 18, 21, and 24, Giraud discloses identifying people within a predetermined proximity of a displayed product and assessing the interest in the displayed product based upon characteristics of the people identified including behavior (Col. 5, lines 66-

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67, Col. 6, lines 1-24). Giraud does not disclose including recognizing speech. However, Fukui et al. ("Fukui") discloses that it is known to use speech recognition to provide intention information and emotion information of a person (Col. 53, lines 64-67, Col. 54, lines 1-5, 63-67, Col. 55, lines 1-15). Giraud and Fukui are combinable because they are from a similar problem solving area of analyzing behavior. At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the analysis of the viewer to include speech recognition. The motivation for doing so would have been because it is well known and routinely utilized in the art and provides further information and the intention and emotion of the view. Therefore, it would have been obvious to combine Giraud with Fukui to obtain the invention as specified in claims 12, 18, 21, and 24.

Other Prior Arts Cited

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,671,668 to Harris for speech recognition system including manner determination;

U.S. Pat. No 5,164,992 to Turk et al. for face recognition system;

U.S. Pat. No 5,771,307 to Lu et al. for audience measurement system; and

U.S. Pat. No 5,835,616 to Lobo et al. for face detection using templates.


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Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia M Kibler whose telephone number is (703) 306-4072. The examiner can normally be reached on Mon-Thurs 8:00 - 5:30 and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703) 308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Virginia Kibler
07/25/04

MEHRDAD DASTOURI
PRIMARY EXAMINER
